

#### 47.305-17

quantity to be shipped to each destination cannot be predetermined. This clause protects the interests of both the Government and the contractor during the course of the performance of the contract.

[48 FR 42424, Sept. 19, 1983, as amended at 54 FR 48990, Nov. 28, 1989; 60 FR 34760, July 3, 1995; 61 FR 39190, July 26, 1996]

#### 47.305-17 Returnable cylinders.

The contracting officer shall insert the clause at 52.247-66, Returnable Cylinders, in a solicitation and contract whenever the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders.

[59 FR 11386, Mar. 10, 1994]

#### 47.306 Transportation factors in the evaluation of offers.

When evaluating offers, contracting officers shall consider transportation and transportation-related costs as well as the offerors' shipping and receiving facilities.

#### 47.306-1 Transportation cost determinations.

When requesting the transportation officer to assist in evaluating offers, the contracting officer shall give the transportation officer all pertinent data, including the following information:

- (a) A complete description of the commodity being acquired including packaging instructions.
- (b) Planned date of award.
- (c) Date of initial shipment.
- (d) Total quantity to be shipped (including weight and cubic content, when appropriate).
- (e) Delivery schedule.
- (f) Contract period.
- (g) Possible use of transit privileges, including stopoffs for partial loading or unloading, or both.

#### 47.306-2 Lowest overall transportation costs.

(a) For the evaluation of offers, the transportation officer shall give to the contracting officer, and the contracting officer shall use, the lowest available freight rates and related accessorial and incidental charges that (1) are in effect on, or become effective

#### 48 CFR Ch. 1 (10-1-12 Edition)

before, the expected date of the initial shipment and (2) are on file or published on the date of the bid opening.

(b) If rates or related charges become available after the bid opening or the due date of offers, they shall not be used in the evaluation unless they cover transportation for which no applicable rates or accessorial or incidental costs were in existence at the time of bid opening or due date of the offers.

#### 47.306-3 Adequacy of loading and unloading facilities.

(a) When determining the transportation capabilities of an offeror, the contracting officer shall consider the type and adequacy of the offeror's shipping facilities, including the ability to consolidate and ship in carload or truckload lots.

(b) The contracting officer shall consider the type and adequacy of the consignee's receiving facilities to avoid shipping schedules that cannot be properly accommodated.

### Subpart 47.4—Air Transportation by U.S.-Flag Carriers

#### 47.401 Definitions.

As used in this subpart—

*Air freight forwarder* means an indirect air carrier that is responsible for the transportation of property from the point of receipt to the point of destination, and utilizes for the whole or any part of such transportation the services of a direct air carrier or its agent, or of another air freight forwarder.

*Gateway airport abroad* means the airport from which the traveler last embarks en route to the United States or at which the traveler first debarks incident to travel from the United States.

*Gateway airport in the United States* means the last U.S. airport from which the traveler's flight departs or the first U.S. airport at which the traveler's flight arrives.

*International air transportation* means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

## Federal Acquisition Regulation

47.403-1

*United States* means the 50 States, the District of Columbia, and outlying areas of the United States.

*U.S.-flag air carrier* means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 41102).

[48 FR 42424, Sept. 19, 1983, as amended at 66 FR 2134, Jan. 10, 2001; 68 FR 28084, May 22, 2003]

### 47.402 Policy.

Federal employees and their dependents, consultants, contractors, grantees, and others must use U.S.-flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, if available (section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act)).

[68 FR 28084, May 22, 2003]

### 47.403 Guidelines for implementation of the Fly America Act.

This section 47.403 is based on the Guidelines for Implementation of the Fly America Act (case number B-138942), issued by the Comptroller General of the United States on March 31, 1981.

#### 47.403-1 Availability and unavailability of U.S.-flag air carrier service.

(a) If a U.S.-flag air carrier cannot provide the international air transportation needed or if the use of U.S.-flag air carrier service would not accomplish an agency's mission, foreign-flag air carrier service may be deemed necessary.

(b) U.S.-flag air carrier service is considered available even though—

(1) Comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier;

(2) Foreign-flag air carrier service is preferred by, or is more convenient for, the agency or traveler; or

(3) Service by a foreign-flag air carrier can be paid for in excess foreign currency (unless U.S.-flag air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of such monies).

(c) Except as provided in paragraph 47.403-1(a), U.S.-flag air carrier service

shall be used for U.S. Government-financed commercial foreign air travel if service provided by U.S.-flag air carriers is available. In determining availability of a U.S.-flag air carrier, the following scheduling principles shall be followed unless their application would result in the last or first leg of travel to or from the United States being performed by a foreign-flag air carrier:

(1) U.S.-flag air carrier service available at point of origin shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.

(2) When an origin or interchange point is not served by a U.S.-flag air carrier, foreign-flag air carrier service shall be used only to the nearest interchange point on a usually traveled route to connect with U.S.-flag air carrier service.

(3) When a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

(d) For travel between a gateway airport in the United States and a gateway airport abroad, passenger service by U.S.-flag air carrier shall not be considered available if—

(1) The gateway airport abroad is the traveler's origin or destination airport and the use of U.S.-flag air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by a foreign-flag air carrier; or

(2) The gateway airport abroad is an interchange point and the use of U.S.-flag air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or if delayed departure from, or accelerated arrival at, the gateway airport in the United States would extend time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

(e) For travel between two points outside the United States, the rules in paragraphs 47.403-1(a), (b), and (c) shall be applicable, but passenger service by a U.S.-flag air carrier shall not be considered to be reasonably available if—